

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Alabama Private Investigation Board

Rule No.: 741-X-3

Rule Title: **Organization and Administration**

X New _____ Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's
Police power and the protection of the public health,
Safety, or welfare? Yes

Is there another, less restrictive method of regulation
Available that could adequately protect the public? No

Does the proposed rule have the effect of directly or
Indirectly increasing the costs of any goods or services
Involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public
Than the harm that might result from the absence of
The proposed rule? No

Are all facets of the rulemaking process designed solely
For the purpose of, and so they have, as their primary
Effect, the protection of the public? Yes

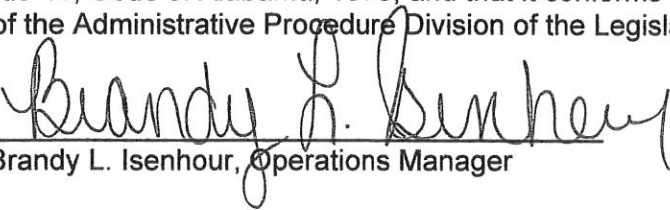
Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied
by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of
Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the
requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all
applicable filing requirements of the Administrative Procedure Division of the Legislative
Reference Service.

Signature of certifying officer


Brandy L. Isenhour, Operations Manager

Date: November 18, 2013

(DATE FILED)
(STAMP)

Alabama Private Investigation Board

NOTICE OF INTENDED ACTION

AGENCY NAME:

Alabama Private Investigation Board

RULE NO. & TITLE:

741-X-3-.01 **Selection and Composition of the Board**
741-X-3-.02 **Terms of Office**
741-X-3-.03 **Officers of the Board**
741-X-3-.04 **Duties of the Board**
741-X-3-.05 **Meetings of the Board**
741-X-3-.06 **Employment of Personnel**
741-X-3-.07 **Use of Forms**
741-X-3-.08 **Maintenance and Inspection of Board Records**
741-X-3-.09 **Rules and Regulations**
741-X-3-.10 **Petition for Adoption, Amendment or Repeal of a Rule**
741-X-3-.11 **Declaratory Rulings**
741-X-3-.12 **Board Member Compensation**
741-X-3-.13 **Board of Private Investigation Fund**

INTENDED ACTION:

To establish Rules & Regulations

SUBSTANCE OF PROPOSED ACTION:

The Alabama Private Investigation Board proposes to establish an Administrative Code or Rules and regulations under which to operate. Specifically, these are to establish initial Rules and Regulations.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

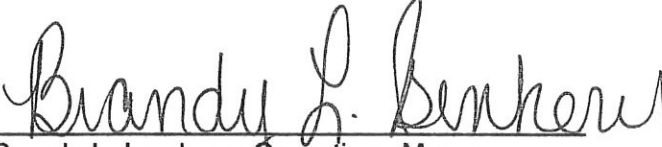
Written comments, views, or arguments will be received by the Alabama Private Investigation Board thru 9:00 am. on December 31, 2013. Comments should be directed to Paula McCaleb, Executive Director, at P.O. Box 241206, Montgomery, AL 36124, or via fax at 334-274-0684.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

December 31, 2013

CONTACT PERSON AT AGENCY:

Paula McCaleb, Executive Director
334.215.0693



Brandy L. Isenhour, Operations Manager

CHAPTER 741-X-3
Organization and Administration

741-X-3-.01	Selection and Composition of the Board
741-X-3-.02	Terms of Office
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741-X-3-.11	Declaratory Rulings
741-X-3-.12	Board Member Compensation
741-X-3-.13	Board of Private Investigation Fund

741-X-3-.01 Selection and Composition of the Board

- (1) The Alabama Private Investigation Board shall be composed of eight members.
- (2) Three members appointed by the Governor, two shall be private investigators in this state and one shall be a consumer member who will represent the public at large. The initial terms shall be for three years. Successor members shall be appointed for a term of four years each.
- (3) One member appointed by the Lieutenant Governor shall be a private investigator. The initial term shall be for two years. Successor members shall be appointed for a term of four years.
- (4) One member appointed by the Speaker of the House of Representatives shall be a private investigator. The initial term shall be for two years. Successor members shall be appointed for a term of four years.
- (5) One member appointed by the Attorney General who shall be a private investigator. The initial term shall be for two years. Successor members shall be appointed for a term of four years.
- (6) One member appointed by the Alabama State Bar Association shall be a member in good standing. This position shall be for a term of four years.
- (7) One member appointed by the Alabama Private Investigators Association shall be a private investigator. This position shall be for a term of four years.
- (8) Private investigator members of the Board shall have had five years investigator experience prior to his or her appointment. After August 1, 2018, private investigator members shall have been licensed as an Alabama Licensed Private Investigator for at least five years prior to his or her appointment.
- (9) The composition of the Board shall reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.
- (10) All members shall serve until their successor is appointed.
- (11) Board member Oath of Offices shall be filed with the Secretary of State.
- (12) Members of the Board are immune from civil liability and may not be liable for damages when acting in the performance of their duties.

741-X-3-.02 Terms of Office

- (1) Except for the initial Board appointments, the term of office of all members shall be four years.
- (2) No member may be appointed for more than two consecutive full terms.
- (3) A vacancy in an unexpired term shall be filled in the manner of the original appointment.

741-X-3-.03 Officers of the Board

- (1) The Board shall elect a Chair and Vice Chair each time a new member is appointed to the Board.
- (2) The Vice Chair shall fill any vacancy in the office of the Chair.
- (3) The duties of the officers shall be as follows:
 - (a) The Chair shall preside at meetings of the Board, appoint members to serve on committees as may be created, serve as ex-officio member of all committees, and determine the rules of order of Board meetings.
 - (b) The Vice Chair shall preside in the absence of the Chair and shall assume the duties of the Chair when necessary.

741-X-3-.04 Duties of the Board

- (1) The Board shall perform the following functions:
 - (a) Set licensure fees, including, but not limited to, application, initial, and renewal.
 - (b) Establish standards of continuing education in accordance with those standards developed and accepted by the profession.
 - (c) Examine for, approve, deny, suspend, and renew licensure of duly qualified applicants.
 - (d) Promulgate and publish rules in accordance with the Administrative Procedures Act.
 - (e) Conduct hearings on charges calling for denial, suspension, revocation, or refusal to renew a license.
 - (f) Maintain a current roster of licensees.
 - (g) Maintain a current list of persons whose license have been suspended, revoked, or denied. The list shall include the name, Social Security number, type, date, and cause of action, penalty incurred, and the length of the penalty. The information on the list, except for the Social Security numbers, shall be available for public inspection during normal business hours.

741-X-3-.05 Meetings of the Board

- (1) The Board shall comply with the Alabama Open Meetings Act.
- (2) A minimum of two regular meetings shall be held each year.
- (3) Special meetings may be called by the Chair or by a quorum of the Board.
- (4) A majority of the members of the Board shall constitute a quorum for the transaction of business.
- (5) A majority of those members on the Board present and voting on any matter shall decide the matter before the Board, except on procedural and evidentiary matters which are provided for in the Administrative Procedures Act.
- (6) Board staff shall keep a record of all regular meetings. The minutes shall be transcribed and presented for approval or amendment at the next regular meeting. The minutes or a true copy thereof, approved by the Board, shall be open to public inspection. The minutes shall reflect:
 - (a) The time and place of each regular meeting of the Board;
 - (b) Names of the Board members present;
 - (c) Names of guests present;
 - (d) Names of staff members present;
 - (e) Place of meeting notice advertisements;
 - (f) All official acts of the Board;
 - (g) When requested by a dissenting Board member, specific reasons shall be recorded; and
 - (h) A roll call vote may be taken upon the request of a Board member.
- (7) Requests to present information to the Board during a regularly scheduled Board meeting shall be in writing to the Executive Director at least fourteen days prior to the meeting. Exceptions may be made in extraordinary circumstances at the direction of the Chair. All requests are subject to review and approval by the Chair. The usual time limitation for presentations will be five minutes with exceptions made by permission of the Chair. Written requests should include:
 - (a) Contact information of the designated spokesperson; and

- (b) Summary of information to be presented.

741-X-3-.06 Employment of Personnel

The Board may employ an executive director, investigators, inspectors, attorneys and any other agents and employees and assistants as may from time-to-time be necessary to establish and maintain administration and enforcement of the Alabama Private Investigation Regulatory Act and rules and regulations established by the Board. With the exception of the Executive Director, all personnel shall be subject to the provisions of the state Merit System Act.

741-X-3-.07 Use of Forms

Applications shall be made on the prescribed forms approved by the Board. Copies of instructions and forms are available from the office of the Board.

741-X-3-.08 Maintenance and Inspection of Board Records

- (1) The Board shall maintain its records in accordance with the Alabama Open Meetings Act.
- (2) Public records maintained by the Board shall be subject to public disclosure pursuant to the Alabama Open Meetings Act and the Alabama Open Records Act.
- (3) Upon request to the Executive Director, public records maintained by the Board shall be available for inspection and duplication at the office of the Board during regular business hours. The inspection and duplication of public records shall be under the supervision of the Executive Director or an authorized designee.
- (4) Any person wishing to obtain copies of public records shall submit a written request to the office of the Board and will be supplied copies upon payment of the cost of copying, handling and postage.
- (5) Public records maintained by the Board that are available for inspection and duplication include, but are not limited to:
 - (a) Board minutes, except those minutes recorded during an executive session that are prohibited from disclosure by the Alabama Open Meetings Act;
 - (b) Names and addresses of current licensees;
 - (c) Names of persons whose licenses have been suspended, revoked, or denied, including the type, date, infraction, the penalty incurred, and length of the penalty;
 - (d) Rules and regulations of the Board, as promulgated and published in accordance with the Sections 41-22-1, et seq., Administrative Procedures Act, Code of Alabama (1975);
 - (e) Other written statements of policy or interpretations formulated, adopted, or used by the Board in the discharge of its duties and functions; and
 - (f) Final orders, decisions, declaratory rulings, and opinions issued by the Board.

741-X-3-.09 Rules and Regulations

All rules and regulations of the Board shall be adopted, amended or repealed in accordance with the Sections 41-22-1 et seq., Alabama Administrative Procedures Act, Code of Alabama (1975).

741-X-3-.10 Petition for Adoption, Amendment or Repeal of a Rule

- (1) Any interested person may petition the Board requesting the adoption of a new rule or the amendment or repeal of an existing rule. The petition shall be in writing and shall include:
 - (a) The name and address of the petitioner;
 - (b) An exact statement of the proposed additional rule or amendment or identification of the rule to be repealed; and
 - (c) The pertinent facts, data, opinions or arguments in support of the petitioner's position.
- (2) Upon submission of the petition, the Board shall initiate rule-making proceedings or deny the petition in writing on the merits, stating its reasons for the denial at its next regularly scheduled meeting.

- (3) A petition requesting adoption, amendment, or repeal of a rule may not be considered by the Board if the subject of the petition is the same or similar to the subject presented in another petition considered by the Board within the previous twelve months.

741-X-3-.11 Declaratory Rulings

Any person substantially affected by a rule may petition the Board for a declaratory ruling with respect to the validity of a rule or the applicability to any person, property or state of facts of any rule or statute enforceable by it or with respect to the meaning and scope of any order of the Board.

- (1) The petition shall be in writing and shall include:
 - (a) The name and address of the petitioner;
 - (b) A statement of facts sufficient to show that the person seeking relief is substantially affected by the rule; and
 - (c) The rule, statute or order and the reasons for the questions.
- (2) Failure of the Board to issue a declaratory ruling at its next regularly scheduled meeting, following receipt of request, shall constitute a denial of the request. The Board shall provide the petitioner written notification of its decision to deny the request and shall state therein the reason for the denial.
- (3) Circumstances in which rulings shall not be issued include but are not necessarily limited to:
 - (a) Lack of jurisdiction.
 - (b) Lack of clarity of the issue presented.
 - (c) No clear answer determinable.

741-X-3-.12 Board Member Compensation

- (1) Each member of the Board shall serve without compensation, but shall be reimbursed for travel expenses incurred in attendance at meetings of the Board and any other business of the Board at its discretion. Mileage rates shall be the same as established for state employees.
- (2) Board members shall also receive a per diem allowance following the guidelines for state employees.
- (3) The reimbursement for expenses shall be paid from funds derived from the Alabama Private Investigation Board.

741-X-3-.13 Board of Private Investigation Fund

- (1) A special trust fund is established in the State Treasury known as the Alabama Private Investigation Board Fund. All funds received by the Board shall be deposited into the fund and shall be expended only to implement and administer this act. No monies shall be withdrawn or expended from this fund for any purpose unless the monies have been appropriated by the Legislature and allocated pursuant to Sections 34-27B-1, et. Seq., Code of Alabama (1975). Any monies appropriated shall be budgeted and allocated pursuant to the Budget Management Act in accordance with Article 4, (commencing with Section 41-4-80) of Chapter 4 of Title 41, and only in the amounts provided by the Legislature in the general appropriations act or other appropriations act. Funds shall be disbursed only upon a written warrant of the State Comptroller upon itemized vouchers approved by the Executive Director.

Author: The Alabama Private Investigation Board

Statutory Authority: Act #2013-306, SB 172 of the 2013 Regular Session

Date: January 7, 2014